

COMMISSIONERS APPROVAL

CHILCOTT *g*

THOMPSON *at*

LYONS

PLETTENBERG (Clerk & Recorder)

Date.....June 12, 2007

Members Present.....Commissioner Greg Chilcott and
Commissioner Howard Lyons

Minutes: Glenda Wiles

Commissioner Chilcott participated in an Election Canvas with Clerk & Recorder Regina Plettenberg, Treasurer JoAnne Johnson and Sheriff Chris Hoffman.

The Board met for various administrative issues which included the following:

Commissioner Lyons made a motion to approve the letter of credit/improvement for Kootenai Creek Road between FBN Inc., (the developer) and the Ravalli County Commissioners. Commissioner Chilcott seconded the motion and all voted "aye".

Commissioner Lyons made a motion to grant final approval to the Kootenai Creek Village – Phase I. Commissioner Chilcott seconded the motion and all voted "aye".

Also present at this meeting was Engineer John Horat who represented FBN Inc., and Planner Tristan Riddell. John indicated the developer would like to reduce the number of lots along the creek by two lots, thus reducing the impact on the creek. The developer does not want to resubmit this change for a minor subdivision, but would rather prepare a boundary line modification. Commissioner Chilcott stated while he appreciates this common sense approach, he is not sure they would be meeting the letter of the law as they would not be giving public notice of this reduction of lots. He stated this should be noticed to the public. Tristan stated the language within their regulations addresses five lots for any type of modification, and he would need clarification on this type of submittal that John is referring to. Civil Counsel Alex Beal was now present. John noted the acreage from the reduction of the two lots would go equally to the other lots. He also noted this would lessen the impact on the creek; and while there is no specific process for this review, it simply states the Commissioners will review this request. Alex stated this type of issue does not come up often, but the request would need to go through the public process. Discussion of the subdivision policy took place. Alex stated he did not feel there should be a full subdivision review, but they must allow for the public input. He stated he would like to review this under the subdivision exemption process,

which allows for public input, and then have it come directly to the Commissioners for review. Planner Renee Van Hoven was now present for some of the discussion of the county policy. Renee stated the developer would need to submit their modifications, the Planning Board would need to review this under public hearing under 'material review of the final plat'; and it would come to the Commissioners for their final decision. The final plat would then be recorded. It was agreed John will work on this submittal under the 'material review of the final plat' requirements.

The Board also reviewed the request for final approval on the Paradise Acres 3 Subdivision. Present at this meeting were Engineers Tom Hanson, John Kellogg and the Developer. Commissioner Chilcott noted the Road Department has presented a summary of findings for Hidden Valley Road North for certain improvements that are needed. John Kellogg stated this is the final portion of this development known as phase 4. He stated this has been a long process. In the early 90's the developer proposed this in three phases. This has a private access. After 1992, they brought this subdivision in for phasing but there was no provision for phasing under the regulations at the time, so the phases have to be treated as actual subdivisions. Therefore at each submittal the regulations are all different. At one time during the process gravel roads were accepted, now at the final phase asphalt roads are required. John stated the road that met county standards in 1997 is in need of maintenance per the Road Department. Therefore at each turn the bar or the rules continue to rise. When the Planning Board reviewed this final phase or subdivision, the county expressed concern as to where Hidden Valley Road North connected into the north road that was gravel. The developer, due to those concerns, paved that connection of the two roads. John stated the developer has been trying to keep pace with the ever changing and needed requirements that have come along. They would like to file the final plat without doing anything major to the road. Tom addressed the memo from the county road department for the following requirements:

- Horizontal curve – the developer is ready to make those improvements for signing at the curve and stop sign and install a speed limit on N. Hidden Valley.
- Chip Seal - The part they are having an issue with is the chip seal request because the developer already brought the county road up to specifications in 1999 when it was required of him. There are other subdivisions that are waiting to utilize this road. It appears that the developer is being required to continue to bring this up to county standard at every turn while the other developers will use the road. Tom stated if his memory serves him right, there were some law suits over access of the roads. He does not know if it was determined that it was private or public. John stated he remembers the travel portion of the road to be public. Commissioner Chilcott stated they have the responsibility to provide for public health and safety. It is important to follow this public policy and responsibility to the public health and welfare. The question is: how does the County treat this prescriptive easement. A 'late comer' agreement might be appropriate in this request. In that the developer pays the up front costs and other developers are 'waiting in line', should they pay when they build their development. Tristan stated the subdivisions that are waiting in the wings are coming in under the ASHTO Standards and he felt they would have different standards. Tom stated

the court decided those lots have the right to use the easements. He also felt the ASHTO Standards would not have the same requirement (he felt they would actually be less). Tom stated their concern is the developer feels he prepared the road to the proper standard in 1999 and he does not feel he should do it again. If the Commissioners feel he should bring the road up to standards again, then they will ask for some refinancing through a 'late comers agreement'. Tom stated they could re-certify the road to meet the road standards today, but asked if the standards will change tomorrow. Commissioner Chilcott noted as the number of lots increase, the standards change. Renee stated under the new road standards, they now require the applicant to show whether the road meets the county standards. This is a unique situation in that they must prove the road meets the county requirements at the time of final plat. A variance can be requested with a public hearing, but it must be done prior to final plat. Alex agreed this development has been caught in the middle of a number of requirements simply because of the number of subdivision submittals over the years. Tom asked if they could bring forward a plan to do all of the things the Road Department requires; then ask that a refund agreement be applied to additional developers as they develop subdivisions and utilize the road. Planning Director Karen Hughes was now present. She asked if the county would actually enter into a contract with the developer to obtain refunded monies from other developers as they develop their properties. She felt it would have to be a contract because it is not part of the conditional approval. Karen stated they have a draft of this type of contract but it is not part of the subdivision regulations. Alex stated they could develop a contract for these refinanced monies. Tom stated the developer needs to do the work; do the work and ask for a refunding agreement; or thirdly prepare a variance request to avoid some or all of the work. Tom asked if Alex can look into the applicability of a contract/agreement. The Developer Bill Bielby stated he simply wants to get this done. Commissioner Lyons stated it would be a shame to re-build the road only to find it does not meet the standards tomorrow. Tom stated that is unlikely it would happen tomorrow but eventually with the development of more lots, that will happen with new regulations. Bill asked about the money they have already put into the road; could that count as to what the improvements are required. Alex stated he could research that if the Commissioners want to look at that. Commissioner Chilcott stated it is the Commissioner responsibility to make sure that public health and safety is protected. This has been a contentious road and while private, the road should probably become public. Some discussion of this comment took place. It was agreed this could actually be the fourth option for the developer to review.

The developer will review his options and the final plat decision will be placed on hold at this time.

The Board met with Bill Watkins of Zip Beverage. Bill stated they are the Budweiser Wholesaler out of Missoula and the Clydesdale Horses will be coming to the Fair. During that time, they have an extra five days available until the horses go elsewhere. He stated that does not usually occur and they want to take advantage this time by setting up

a community function allowing citizens to have their pictures taken in front of the Clydesdales. They would like this to take place on county property, at the ball fields next to the fair. The dates would be August 22 and August 24th for the special promo. The other days they will actually be at the fairgrounds. One day they would have pictures with the community and another day the event would be for their vendors with product sampling. Commissioner Chilcott stated the product sampling might be an issue on county property particularly in regard to the ordinances. The Commissioners agreed the community pictures would be fine on the county ball fields but in regard to product sampling (sampling the Budweiser Beer); that should not be done on county property. Bill will visit with the City and see if the park by the river is available.

In other administrative business, the Board reviewed the Task Order from the Department of Health and Human Services (DPHS). This Master Task Order covers the period July 1, 2005 through June 30, 2012 for Maternal and Child Health Services. **Commissioner Lyons made a motion to execute Task Order No. 08-07-5-01-041-0 with DPHS. Commissioner Chilcott seconded the motion and all voted "aye".**

The Board reviewed a letter from Arlene Anders of the Sunnyside/Three Mile Cemetery District who stated Bill Lyons resigned his position of trustee and they would like the Commissioners to appoint T.C. Richardson to a term ending June 30, 2009. **Commissioner Lyons made a motion to fill the remainder of Bill Lyons term and a three-year term ending June 30, 2009 with T.C. Richardson. Commissioner Chilcott seconded the motion and all voted "aye".**

DUI Task Force Coordinator Glenda Wiles brought forth the Fiscal Year 2008 DUI Task Force Plan for consideration by the Commissioners. This plan is sent to the State of Montana each year for DUI Task Force funding. Commissioner Lyons made a motion to approve the 07-08 DUI Task Force Plan submittal to the State Department of Transportation. Commissioner Chilcott seconded the motion and all voted "aye". Commissioner Lyons made a motion to adopt Resolution No. 2132 to approve of the DUI Task Force Plan for Fiscal Year 07-08. Commissioner Chilcott seconded the motion and all voted "aye". DUI Task Force Glenda Wiles presented a year end recap for the Board to review at a later time.

Commissioner Lyons made a motion to approve the Montana Food Nutrition Education proposal for Ravalli County October 1st through September 30th, 2008. Commissioner Chilcott seconded the motion and all voted "aye".

In other business the Board met to discuss the Pogo Pumps Et al litigation settlement with the FAA. Present at this meeting were Civil Counsel Alex Beal, Airport Board Members Dave Hedditch, Carl Fox, Jim Trowbridge, Judy Stewart and Airport Manager Page Gough. Pogo Pumps FBO Mark Fournier was also present as were other members of the public. Commissioner Chilcott indicated they were present to discuss the settlement agreement that occurred last Thursday which included input from Joe Briggs who is a compliance specialists and John Styba of the FAA, Civil Counsel, Airport Board Chair Dave Hedditch, Airport Manager Page Gough and Commissioner Greg Chilcott. The

draft settlement agreement was reviewed by Joe Briggs who is also an attorney. Commissioner Chilcott read the settlement draft. Alex noted this issue has dragged on for several months and this agreement should solve the problems of FAA compliance, any pending litigation, and brings the county up to meeting the legal obligations. There is nothing in the settlement agreement that is out of the ordinary. There is a swap of land but each party gives up a little something. The geographic space should allow everyone to get along.

Public comment was then asked for.

FBO Steve Wolters asked if there was a time stipulation for the land swap and compliance issues. Alex stated it would need to be done within the 18-months. There is a proposed schedule to have things completed within 6-months as of today. The deadline however is 18-months. In regard to the fuel farm lease, there are some conditions for the county to fulfill and the clock won't start clicking until that time.

Mark Fournier stated Joe addressed the road being constructed to the fuel tank, and if they do not have that road constructed; Hamilton Aviation would be able to utilize the land over to the south. Commissioner Chilcott stated from the intersection of the road in front of seat base to the northwest corner of the fuel farm will provide access to the fuel truck. He also stated they have to have that access to make this agreement work. Alex stated he will change the agreement to reflect the commitment to that construction. Page agreed with that change.

Bill Stewart asked about the access to the north ramp. The map was then reviewed. Alex also noted there was an issue with the current plan that was brought to their attention by the FAA. Essentially the county is not in compliance with the FAA spacing and parking. The change simply shuffles the parking spaces around and the public will lose a couple of spaces. This in turn will open up some ramp parking to the south. This change places Hamilton Aviation all to one area and the old Pogo Pumps spaces are to be utilized by the public.

Commissioner Chilcott noted the amendment will be reflected under county duties (to require the road to be built). Mark asked if there could be a time frame on the road being built. Commissioner Chilcott stated he can not be sure the road will be done by the end of June, but the County will attempt to have it done by that time. Mark asked if it is not completed, could they move their tank to the south east corner which has access. Commissioner Chilcott asked if that would be temporary. Mark stated they could leave it there. Commissioner Chilcott stated they would like to keep the traffic flow the way it is being addressed, and he would not like to see this request be permanent. Mark stated the tank has been sitting there since last October and fire season is starting. They would like to have access, thus they need the road for the access. Mark stated a dirt road at this point will work; then it can be paved later. Commissioner Chilcott stated the fire season does not normally start until August, but they can work towards a target date of July 31st providing some sort of access to the northwest fuel site. If that can not be done, they will look to the south east corner for placement of the tank. Mark agreed to that.

Alex also notes this does not waive any civil claims against the county. This is a settlement for the FAA, but he hopes this ends the other claims that Mark has against the county. The Airport Board Chair, Airport Manager concurred to this change, as did Hamilton Aviation (Mark Fournier) and Civil Counsel.

Commissioner Lyons made a motion to approve this settlement agreement between the County and Hamilton Aviation (Pogo Pumps, Viper Air) as amended this date. Commissioner Chilcott seconded the motion and all voted "aye". The agreement was then executed by the responsible parties, as were Airport Lease 528, 598 & 594. (The fuel farm, once decided for location due to the road issue, will have a separate lease number). It was noted this consolidates the Pogo Pumps and Viper Air into Hamilton Aviation; keeping the FBO North Star Aviation and Hamilton Aviation geographically separate. Commissioner Chilcott stated this agreement was due to much consideration locally and by the FAA. He thanked everyone for their patience and assistance.

In other airport business, Page brought forth the new lease Doug Hodges (lease # 251). Doug recently purchased Wayne Craw's hangar. This request also has a holding tank which will have the approval by the Environmental Health Office. Commissioner Chilcott reiterated his concern that the Environmental Health Office be the ultimate authority on this request for a holding tank. It was noted the Environmental Health Office requires the recommendation by the Airport Board. Commissioner Lyons made a motion to approve of lease #251. Commissioner Chilcott seconded the motion and all voted "aye".

Page also noted the Airport Board recommendation that he purchase the infrared camera. He noted he will have the money next fiscal year. Commissioner Chilcott noted they recognize this request but the Board does not recognize that the money will be there for the upcoming fiscal year.

Page also noted the Boy Scouts will be utilizing a portion of the Airport grounds for some training. There will be many activities along with an above ground fire pit. Page has all of the insurance papers. This event occurs all day Friday and half a day Saturday.